



IFW

Atty. Dkt. No. 041194-0105

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Birgit C. HOFMANN
Title: New Guinea Impatiens Plant
Named 'Fisupnic Pinkeye'
Appl. No.: 10/829,349
Filing Date: April 22, 2004
Examiner: Not Yet Assigned
Art Unit: 1661

CLAIM FOR CONVENTION PRIORITY

Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Sir:

The benefit of the filing date of the following prior foreign application filed in the Canadian Plant Breeders' Rights Office on April 29, 2003, is hereby requested, and the right of priority provided in 35 U.S.C. §119 is hereby claimed.

In support of this claim, filed herewith are certified copies from the Canadian Food and Inspection Agency, Plant Breeders' Rights Office:

- CANADIAN PLANT BREEDER'S RIGHTS APPLICATION NO. 03-3588 'Fisupnic Pinkeye' filed April 29, 2003.

Respectfully submitted,

Richard C. Peet

Reg No. 34,717

Date

June 8, 2004

By

FOLEY & LARDNER, LLP
Customer Number: 22428

22428

22428

PATENT TRADEMARK OFFICE

Telephone: (202) 672-5483
Facsimile: (202) 672-5399

Richard C. Peet
Richard C. Peet
Attorney for Applicant
Registration No. 35,792



Canadian Food Agence canadienne
Inspection Agency d'inspection des aliments

Plant Breeders' Rights Office
59 Camelot Drive
Ottawa, Ontario
K1A 0Y9
Tel.: (613)225-2342
Fax: (613)228-6629

April 28, 2004

**CERTIFIED COPIES OF DOCUMENTS RELATING
TO THE APPLICATION FOR A GRANT OF PLANT BREEDER'S RIGHTS
FOR THE NEW GUINEA IMPATIENS VARIETY, 'Fisupnic Pinkeye'**

As Commissioner of Plant Breeders' Rights, I hereby certify that the documents set out below are true copies of the documents originally filed in our Office on April 29, 2003 by Florfis AG for the above-mentioned variety.

Application Number: 03-3588
Proposed denomination: 'Fisupnic Pinkeye'

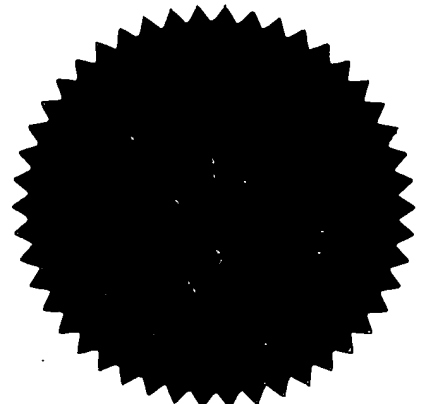
Sandy Marshall

for

Valerie Sisson
Commissioner

Plant Breeders' Rights

Att. : Plant Breeders' Rights Application form (5 pages)
 Evidence Establishing the Legal Representative (1 page)
 Authorization of Agent (1 page)



Canada

PLANT BREEDERS' RIGHTS APPLICATION FORM

(SEE INSTRUCTIONS ON PAGE 3-4)

THE INFORMATION ON THIS DOCUMENT IS REQUIRED BY THE GOVERNMENT OF CANADA FOR THE PURPOSE OF DETERMINING IF A PLANT BREEDERS' RIGHT IS TO BE GRANTED. THE APPLICATION IS HELD CONFIDENTIAL PRIOR TO PUBLICATION OF PARTICULARS IN THE PLANT VARIETIES JOURNAL. SOME INFORMATION MAY BE ACCESSIBLE OR PROTECTED AS REQUIRED UNDER THE PROVISIONS OF THE ACCESS TO INFORMATION ACT. INFORMATION THAT COULD CAUSE YOU OR YOUR ORGANIZATION INJURY IF RELEASED IS PROTECTED FROM DISCLOSURE AS DEFINED IN SECTION 20 OF THE ACCESS TO INFORMATION ACT.

APPFORM/01-11-01

1. NAME OF APPLICANT (AS IT IS TO APPEAR ON THE CERTIFICATE) FLORFIS AG	3. PROPOSED DENOMINATION (THE DENOMINATION OR ANY PART OF THE DENOMINATION MUST NOT BE TRADEMARKED IN CANADA) Fisimp 234 IS THIS AN EXPERIMENTAL DESIGNATION? <input checked="" type="checkbox"/> YES <input checked="" type="checkbox"/> NO
2. ADDRESS OF APPLICANT Parkstrasse 33, 4102 Binningen, Switzerland PHONE NO. (INCLUDE AREA CODE): FAX NO. (IF AVAILABLE):	4. OTHER DESIGNATIONS(S) <input checked="" type="checkbox"/> YES (IF "YES" GIVE DESIGNATION AND COUNTRY OF USE) <input type="checkbox"/> NO FISUPNIC PINKEYE
5. NAME OF AGENT Mr. Eric Voogt, Westcan Greenhouses Ltd.	
6. ADDRESS OF AGENT 2527 - 210th Street Langley, British Columbia, V2Z 2A9 PHONE NO. (INCLUDE AREA CODE) (604) 530-9298 FAX NO. (IF AVAILABLE) (604) 530-9966	
7. NAME AND ADDRESS OF BREEDER, IF DIFFERENT FROM APPLICANT Ms. Birgit HOFMANN, Gassenweg 29, 56170 Bendorf, Germany PHONE NO. (INCLUDE AREA CODE): FAX NO. (IF AVAILABLE):	
8. GENUS AND SPECIES NAME Impatiens New-Guinea hybrid	9. FAMILY NAME (BOTANICAL) Balsaminaceae
10. COMMON NAME New-Guinea Impatiens	

11. HAS AN APPLICATION FOR PROTECTION BEEN FILED OUTSIDE OF CANADA?

☒ YES (IF "YES" GIVE NAMES OF COUNTRIES AND DATES)
☒ NO

12. HAS THE VARIETY BEEN GRANTED RIGHTS IN OTHER COUNTRIES?

☐ YES (IF "YES" GIVE NAMES OF COUNTRIES AND DATES)
☒ NO

13. IS PRIORITY CLAIMED IN CANADA WITH RESPECT TO AN APPLICATION(S) MADE OUTSIDE OF CANADA? (SEE INSTRUCTIONS)

☐ YES (IF "YES" GIVE NAME OF COUNTRY AND DATE)
☒ NO

14. HAS THE VARIETY BEEN SOLD OUTSIDE OF CANADA?

☐ YES (IF "YES" GIVE NAMES OF COUNTRIES AND DATES)
☒ NO

**Plant Breeders' Rights
CANADA**

APR 29 2003

**Protection des
obtentions végétales**

15. HAS THE VARIETY BEEN SOLD IN CANADA?

- ☐ YES (IF YES GIVE DATES)
☒ NO

16. IS AN EXEMPTION FROM COMPULSORY LICENSING REQUESTED?

- ☐ YES (IF YES GIVE REASONS)
☒ NO

17. CHECK APPROPRIATE BOX FOR EACH ITEM SUBMITTED FOR FILING (SEE INSTRUCTIONS)

- ☒ A. ORIGIN AND BREEDING HISTORY OF THE VARIETY
☒ B. STATEMENT OF UNIFORMITY AND STABILITY
☒ C. DISTINCTNESS STATEMENT
☐ D. SAMPLE OF PROPAGATING MATERIAL (WHERE APPLICABLE)
☒ E. METHODS FOR MAINTAINING THE VARIETY
☐ F. EVIDENCE ESTABLISHING THE LEGAL REPRESENTATIVE AS THE APPLICANT (WHERE APPLICABLE)
☒ G. AUTHORIZATION OF AN AGENT (WHERE APPLICABLE)

17. CHECK APPROPRIATE BOX FOR EACH ITEM SUBMITTED FOR EXAMINATION (SEE INSTRUCTIONS)

- ☒ H. REQUEST FOR EXAMINATION
☐ I. OBJECTIVE DESCRIPTION FORM
☐ J. RESULTS FROM COMPARATIVE TESTS AND TRIALS
☐ K. COMPARATIVE PHOTOGRAPHS (PRINT AND SLIDE)

18. CHECK APPROPRIATE BOX FOR FEE SUBMISSION(S) (PAYABLE IN CANADIAN FUNDS ONLY; CHECKS TO BE MADE PAYABLE TO: RECEIVER GENERAL FOR CANADA)

- ☒ FILING FEE (\$250)
☒ EXAMINATION FEE (\$750)
☐ PROTECTIVE DIRECTION FEE (\$50)
☐ GRANT OF RIGHT FEE (\$500)
☐ CLAIMING PRIORITY FEE (\$50)
☐ OTHER _____

TO BE COMPLETED BY APPLICANTS/AGENTS REQUESTING A PROTECTIVE DIRECTION

(A PROTECTIVE DIRECTION FEE OF \$50 MUST BE ENCLOSED TO VALIDATE THIS SIGNATURE)


I/We request that a protective direction be given in respect of the plant variety covered by this application. I/We undertake while the protective direction is in force, that no propagating material of the plant variety will be sold in Canada by me/us, or with my/our consent, except as provided in subsection 19(2) of the Plant Breeders' Rights Act, in the period between the making of this application and the time when the Plant Breeders' Right is granted, or refused.

Signature of applicant _____ Date _____

TO BE COMPLETED BY ALL APPLICANTS/AGENTS

I/We am(are) the owner(s) or acting on behalf of the owner(s) of this novel plant variety, and believe that the variety is distinct, uniform and stable as required in subsection 4(2) of the Plant Breeders' Rights Act. I/We understand that test results must be carried out using acceptable scientific procedures. I/We certify that the sample of propagating material supplied (where applicable) is representative of the variety.

Making a false representation is an offence and may result in a loss of the Plant Breeders' Right and prosecution.

SIGNATURE(S)  Hiltrud Schnyder <small>(please print name)</small>	CAPACITY OR TITLE Managing director	DATE 10 April 2003
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FOR OFFICIAL USE ONLY

PBRO APPLICATION NO.:	FILING OF APPLICATION: DATE: TIME: ____ a.m. ____ p.m.
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IMPATIENS 'Fisimp 234'/'Fisupnic Pinkeye'

17A) Origin and breeding history of the variety

'Fisimp 234' was derived from a hybridization made in 2000, and was selected as one seedling within the offspring in the spring of 2001.

The female parent was the variety 'Fisimp 102' and the male parent was 'Fisnics Scarlet Blush'.

The hybridization was made in Hillscheid, Germany, and the seed was taken to Galdar, Gran Canaria, Spain, where the first selection of the seedlings was conducted.

Cuttings from the selected seedling were taken back to Hillscheid for further selection and trial cultivation.

The selection criteria were the flower shape (large, flat and almost round), the begin of flowering (about medium), and over medium to tall sized and well-branched plant habit – in combination with a range of flower colours.

**17 B and E) Statement of uniformity and stability
Methods for maintaining the variety**

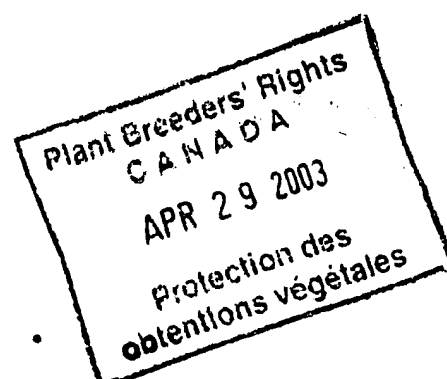
Variety 'Fisimp 234' originated from a single seedling that was propagated asexually. It is a uniform clone without genetical variation. Off-types have not been observed so far.

The variety will be multiplied by shoot tip cuttings from selected stock plants that appear to be uniform and stable in Galdar, Gran Canaria, Spain.

17 C) Distinctness statement

The most similar variety is 'Fisnics Pink'.

In comparison to 'Fisnics Pink', 'Fisimp 234' has a distinctly taller plant habit, and flowers are even larger, with somewhat wavy petals.



APPENDIX VI
LEGAL REPRESENTATIVE STATEMENT / ASSIGNMENT BEFORE THE ISSUE OF
PLANT BREEDERS' RIGHTS

The following letter may serve as a standard form to be completed prior to application as evidence establishing the applicant as the legal representative, or after application when an assignment of a new variety occurs prior to a grant of rights.

I, Birgit Hofmann whose full post office address is
Gassenweg 29
56170 Bendorf
Germany

in consideration of \$..... the receipt of which is hereby acknowledged, do hereby sell and assign,
effective the day of 19..... ,

to FLORFIS AG whose full post office address is
Parkstrasse 33
4102 Binningen
Switzerland

my interest in Canada for the Impatiens variety entitled Fisimp 234
(crop kind) (denomination and application no.)

As described and claimed in my application for Plant Breeders' Rights and to all my corresponding right,
title and interest in and to any grant of rights which may issue therefor.

Signed at Hillscheid, Germany
(City or town) (Country)

this 4th day of April 19 2003

Witness I. Wickel

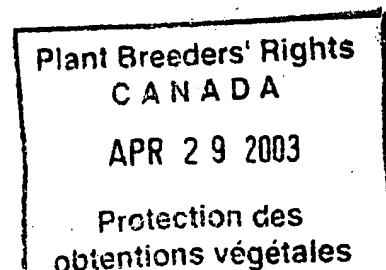
B. Hofmann (Signature of assignor)

Signed at Binningen, Switzerland
(City or town) (Country)

this 10th day of April 19 2003

Witness Dr. M. Unkelbach

H. Schnyder (Signature of assignee)



AGRICULTURE AND AGRI-FOOD CANADA

PLANT BREEDERS' RIGHTS OFFICE

AUTHORIZATION OF AGENT

We hereby authorize:

Eric VOOGT
Westcan Greenhouses Ltd.
2527 - 210th Street,
Langley, British Columbia
V2Z 2A9

to sign any application, notice or other document
given, delivered to or served upon the Controller
in accordance with Plant Breeders' Rights Regulations
and to make all attendances upon the Controller
relating to the plant variety:

Impatiens 'Fisimp 234'

Date: Binningen, April 10, 2003

Signature:



H. Schnyder
FLORFIS AG
Parkstrasse 33
4102 Binningen
Switzerland

